

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DUSTIN ISENHART, <i>et al.</i>)	
)	
Plaintiffs,)	
)	Case No. 16-cv-193 SMY/RJD
v.)	
)	
NRT TECHNOLOGY CORP., <i>et al.</i>)	The Honorable Staci M. Yandle
)	
Defendants.)	
)	

PLAINTIFF’S MOTION TO AMEND SCHEDULING AND DISCOVERY ORDER

1. This is a complex class action case and this Court issued its Scheduling and Discovery Order on August 10, 2016. At the time of the scheduling conference, it was contemplated by both sides and Judge Frazier that given the nature of the case, the deadlines would likely have to be revisited, but that the parties should work to obtain as much discovery as possible in the interim.

2. Since that time, the parties have issued and responded to written discovery, exchanged a small amount of documents, and the Plaintiff has been deposed¹. Corporate representative depositions of Defendants are taking place on December 15, 2016 and December 16, 2016 on preliminary issues such as corporate organization, key personnel, and identity, structure, and location of electronically stored information (ESI), which will better help the parties obtain and focus discovery.

3. Additionally, an agreed ESI protocol was entered by the Court on December 12, 2016. Under that Order, search terms are due to Defendants’ by January 2, 2017.

¹ Plaintiff will also appear for a second deposition on a very limited number of topics.

4. However, significant discovery remains in order for Plaintiff to move for class certification as expeditiously as possible. The remaining discovery to be completed, from Plaintiff's perspective, includes obtaining substantive answers/responses to interrogatories, request to produce, and request to admit directed to Defendants, obtaining and thereafter reviewing a robust and complete document production (which Plaintiff anticipates will be voluminous), deposing certain corporate personnel of Defendant's as well as corporate designees under the FRCP, and providing Plaintiff's experts with evidence to marshal their opinions.

5. Plaintiff respectfully requests a conference with the Court to discuss scheduling issues, and proposes, subject to Court approval, the following revised schedule:

- a. Plaintiff Isenhardt's depositions shall be taken by: completed, subject to f.n. 1 above.
- b. Defendants' party depositions shall be taken by September 15, 2017.
- c. Expert witnesses for Class Certification, if any, shall be disclosed, along with a written report prepared and signed by the witness pursuant to Federal Rule of Civil Procedure 26(a)(2), as follows:

- i. Plaintiff(s) expert(s): October 16, 2017.

- ii. Defendant(s) expert(s): December 1, 2017.

The parties recognize, however, that merits discovery may continue and additional class discovery may be taken in response to the Motion for Class Certification and any Response thereto.

- d. Depositions of Class Certification expert witnesses must be taken by:

- i. Plaintiff(s) expert(s): November 17, 2017.

- ii. Defendant(s) expert(s): January 8, 2018.

- e. Plaintiff(s) Motion for Class Certification and Memorandum in Support shall be filed by February 9, 2018 (such date shall be no later than 8 months prior to the first day of the presumptive trial month or the first day of the month of the trial setting) and shall not exceed 25 pages.

- f. Defendant(s) Memorandum in Opposition to Class Certification shall be filed by March 23, 2018 and shall not exceed 25 pages.
- g. Plaintiff(s) Reply Memorandum, if any, must be filed by April 20, 2018 and shall not exceed 25 pages.
- h. The Class Certification hearing, if any, will be set by separate notice, and thereafter the Court will set dates for the completion of merits discovery and trial

6. Plaintiff also respectfully requests that the Court set a status conference in the interim at the Court's convenience to see how the parties have progressed.

WHEREFORE, Plaintiff respectfully requests that the Court enter the Amended Scheduling and Discovery Order proposed herein and/or Order the parties to attend a conference to address any and all scheduling issues, and for any further relief deemed just and appropriate.

Dated: December 15, 2016

Respectfully submitted,

HOLLAND LAW FIRM

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CERTIFICATE OF SERVICE

I hereby certify that, on December 15, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all parties to this action.

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